



STATE BOARD OF EQUALIZATION

January 2, 1963

W--- A--- American Red Cross
XX --- Street
--- ---, California

Attention: Mr. D--- W. S---, Manager

Gentlemen:

Our San Diego District Office has recently had an inquiry from the --- --- Chapter of the American Red Cross concerning the application of the California Sales and Use Tax Law to the disposal of used automotive equipment by the Red Cross chapter. Since the problem involved may be common to other California chapters of the Red Cross, we thought it advisable to express our views to the W--- A--- office in order that there be uniformity of their understanding of the California Sales and Use Tax Law.

We were informed that the --- --- Chapter of the American Red Cross formerly drove its cars until they were worn out. Apparently, it is now the policy to drive automobiles for two years and then sell them. We understand that the sales of cars are made to individual customers and the sales prices are anywhere from approximately \$1700 to \$2100 each.

We have uniformly considered that the American Red Cross is an arm of the United States Government and is therefore exempt from payment of the California tax on sales made by it. This exemption from the sales tax does not, however, operate to relieve a corporate instrumentality of the Federal Government from collection of the California use tax from the customer to which sales are made if the seller is, under our law, a retailer. Section 6019 of the Revenue and Taxation Code provides that every corporation making more than two sales of tangible personal property during any 12 month period shall be considered a retailer. A retailer, under Section 6203 of the Revenue and Taxation Code, must collect use tax from the purchaser upon sales made in California. The rate of the use tax is the same as that of the sales tax, or 4% state and local tax. The customer is liable to the retailer for the tax as well as being liable to the state.

It would therefore appear that if the American Red Cross is making a sufficient number of sales to be classified as a retailer, that at the time of each sale of its used automobiles to individuals it should collect from the purchaser 4% of the purchase price. The amounts of tax collected from the customer should be remitted to the State Board of Equalization with a sales and use tax return.

Sales of used automobiles made to automobile dealers would be exempt from tax because they are sales for resale. However, a resale certificate should be obtained from the dealer in such case.

If you have any questions with respect to the application of the California Sales and Use Tax Law to the sale of automobiles by your chapters, kindly get in touch with us. There is enclosed for your information a pamphlet containing the provisions of the law. Also enclosed is a list of our office locations where detailed information concerning returns and payments may be obtained.

Very truly yours,

Charles H. Otterman
Tax Counsel

CHO:dse
Encl.

cc: San Diego - Auditing